STRATEGY FOR THE DANISH
COUNTER-PIRACY EFFORT 2011-2014

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EXECUTIVE SUMMARY

The absence of an effective central administration and the collapse of law and order in Somalia, combined with great poverty, have led to a stark increase in piracy activities off the 1,800 nautical mile coastline of Somalia – and since 2009 also in the Arabian Sea and the Indian Ocean. The increased piracy activity has a great human cost for those held hostage and their relatives. It also affects those who carry out their jobs onboard the ships passing through these waters. Moreover, piracy has had a significant negative impact on international commercial shipping and trade, which has also affected the African countries which are experiencing declining trade and growing commodity prices.

Piracy is a global challenge. For a maritime nation like Denmark, who handles about 10 percent of global maritime shipping measured by value, the problem is felt clearly. Countering piracy is therefore a high priority for the Danish Government.

With this strategy, the Government intends to create a coherent framework for the comprehensive Danish effort against piracy over the next three years. At the same time, the Danish effort is placed within an international context. The overall aim of the Danish Strategy effort is to contribute to making the waters off the Horn of Africa and the Indian Ocean safe and navigable for Danish and international maritime shipping. The effort includes bilateral and multilateral political, military, legal and capacity building initiatives. The Strategy on Piracy is in line with the Danish Somalia Policy Paper, which puts Denmark's political and foreign aid engagement into a strategic framework.

THE STRATEGY FOCUSES ON DENMARK'S CONTRIBUTION TO:

- promoting international coordination and focus on counter-piracy efforts, as well as strengthening regional and bilateral cooperation on counter-piracy efforts,

- combating pirates through periodic deployment of a naval contribution and a maritime patrol aircraft,

- identifying practical solutions to the legal challenges posed by counter-piracy efforts,

- working to make the application process in relation to civilian armed guards as flexible as possible, as well as working for the production of international guidelines for the use of civilian armed guards,

- providing support for follow up on ships' compliance with Best Management Practices (BMP),

- building capacities in order to enable the countries in the region to take on the challenges by themselves in the longer term, including support for the creation of coastguard functions in the region, as well as prison capacity in Somaliland and Puntland,

- enhancing the international effort to target those backing the pirates, including initiatives to counter money laundering.

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INTRODUCTION

The overall goal of the Danish efforts to combat piracy is to contribute to making the waters off the coast of the Horn of Africa and the Indian Ocean safe and navigable for Danish and international maritime shipping.

For a long time Denmark has been making a considerable military, political, legal and financial contribution towards the International Community's fight against piracy off the coast of the Horn of Africa. With this Strategy, the comprehensive Danish counter-piracy efforts will be placed into a single political framework with the aim of strengthening coordination, consistency and coherence between many aspects of the Danish efforts. The Strategy views the Danish contribution to combating piracy in a time frame that stretches to

the end of 2014. It puts the efforts in an international context, while at the same time representing a strengthening of the efforts.

It is widely recognized that a long-term and sustainable solution to the problem of piracy is to be found on land in Somalia. Without peace, stability and

development in Somalia, we will not see an end to piracy. The strategic framework for the Danish efforts in Somalia, which comprise political initiatives as well as initiatives in foreign aid and security policy, is described in the Somalia Policy paper of the Danish Government from February 2011.

> **DANISH SUPPORT FOR SOMALIA**
> Denmark contributes to peace and stability in Somalia as part of an international effort, which combines both the political, military and humanitarian effort, as well as efforts in development policy in Somalia and throughout the region. The effort takes place both bilaterally and within the UN and EU frameworks and in close cooperation with the African Union (AU) and the eastern African Intergovernmental Authority on Development (IGAD). The new Danish foreign aid programme for Somalia for the period 2011-2014 is expected to have a budget of at least DKK 370 million. The activities will continuously be adapted to the situation in each region, and have both a humanitarian and developmental focus in the more stable areas of Somalia, particularly in Somaliland, where Denmark will provide support for the promotion of growth and employment.

The creation of a stable and functioning state in all of Somalia, which is capable of taking care of its own security and development, including economically, is a distant prospect. Action needs to be taken through a number of initiatives aimed at curbing the threat posed by piracy to international shipping, including Danish ships and seamen on board the ships. That is the aim of this Strategy, which focuses exclusively on initiatives dedicated to combating piracy.

The Strategy should be considered in the context of the long-term Danish efforts in Somalia and the region as a whole, which are central to the shared efforts to curb piracy.

CURRENT SITUATION AND CHALLENGES

Many analyses have been offered on the situation in Somalia and the causes for piracy, its scope and methods. A detailed rendering of the many views and analyses is not meaningful for the purpose of this Strategy, since the focus is instead devoted to providing a strategic framework of the Danish efforts as we look ahead into the future.

This section is therefore intended to serve only as a short and general outline of the core challenges, designed to place the Strategy in a regional and political context.

Somalia is a fragile state with huge regional variation. The southern and central parts with the capital of Mogadishu find themselves in a severe crisis in terms of security and the humanitarian situation. The interim government

Map: Corbis/Polfoto

only exerts control of a limited part of the capital along with a few provinces. The northwest area of Somaliland is more stable, and in the summer of 2010 a new democratically elected government was formed in the region. Puntland, which covers the northeast part of Somalia and includes the Horn itself, is somewhat stable. It is, how-ever, in Puntland that a large amount of the piracy is based. Other regions in Somalia are moving in the same positive direction, but have not come quite as far. This can be said about Galmudug, among others. The situation in Somalia proper is constantly developing and is partially unpredictable.

So far, there is no evidence of opera-tional cooperation between the pirates and the militant sunni-extremist group of Al-Shabaab, which operates in the southern and central parts of Somalia, although it seems that pirates in some cases have to pay "protection money" in the areas where both groups are represented. It should, however, be emphasized that Al-Shabaab has many factions, and that payments to a local group which calls itself Al-Shabaab do not necessarily equal payments to the part of Al-Shabaab which openly confesses to the ideology of Al-Qaeda. Both piracy and the conflict in southern and central Somalia have a destabilizing effect on the entire Horn of Africa.

Even though a significant antipathy towards the piracy is traceable wihtin the population of Somalia, the absence of a strong central state power and the collapse of rule of law in the country, combined with great poverty, have led to a stark increase in piracy activities off the 1,800 nautical mile coastline of Somalia. Since 2009 the piracy has even spread far out into the Arabian Sea and the Indian Ocean. The increased piracy activity carries particular great human costs for those, who are held hostages, and their relatives. It also affects those, who carry out their jobs onboard the ships passing through these waters. The shipping traffic in the area secures supplies for Europe and Africa, including emergency aid, and has great importance for global trade. For these reasons, piracy has had a significant negative impact on global commercial shipping and trade in recent years, which is also reflected in those countries in Africa that are experiencing declining trade and growing commodity prices.

Piracy is a global challenge. For a maritime nation like Denmark that handles about 10 percent of global maritime shipping measured by value, the problem is felt clearly. This is not only due to the significant threat posed by pirates to the many seamen, who sail ships under the Danish flag, but also because piracy activities are estimated to carry great cost for the Danish shipping companies, which can lead to negative consequences for the state and the consumers.

Piracy emanates mainly from the areas of Puntland and Galmudug, which are the epicentres for planning, recruiting and supplying of piracy activities

It is also off the coast of this area that hijacked ships and the so-called motherships are mainly anchored.

The pirates are constantly changing tactics and ways of operating in response to the International Community's efforts. Previously, the pirates made use of relatively small vessels, which placed certain limitations on their operational range. However, with increased earnings and professionalization the pirates have developed their work methods and expanded the operational radius. Some pirate groups are now using larger hijacked ships as motherships, which makes it possible for them to operate at far greater distances, and without being limited by weather conditions to the same extent as previously. Thus, piracy attacks have been registered as far south as Madagascar, and even in Indian territorial waters, which means that the pirates' operational radius now covers an area of the sea that is larger than Western Europe.

Furthermore, the pirates sometimes use hostages on board the motherships as a shield against the intervention of international forces at open sea. The pirates generally refrain from using severe violence against the hostages, who are seen as a trade asset. However, there have been examples of the use of severe violence and aggressive behaviour when a hijacking did not turn out as planned by the pirates. Since 2009, the development has moved in a direction where the ransoms and the negotiation period have been growing.

The underlying motivation for piracy activities is financial gain. On this basis it is assessed that there are no political interests behind the piracy. Instead, piracy has developed into an actual industry in which a number of local suppliers have strong vested interests. Money

from ransoms is used in the local area, and local suppliers and sub-suppliers are included into the economic interests. It is also understood that money laundering takes place through investments in Nairobi, Dubai, Europe and the United States. This means that an increasing number of people have financial interests in piracy and therefore no interest in its termination.

STRATEGIC CONSIDERATIONS

There are many challenges, and no quick or simple solutions. In order to defeat piracy a whole string of instruments must be applied in the short, medium and long term. This Strategy describes initiatives directed at combating piracy activities in the short and medium term.

AN INTEGRATED APPROACH

The Danish Government is convinced that only through an integrated and comprehensive approach may we influence the situation in a positive direction. In addition, a strengthened and coordinated international engagement is required for the effort to have an impact.

This Strategy comprises a broad spectrum of political, military, practical, legal and economic capacity-building initiatives to counter piracy bilaterally and multilaterally. Development initiatives in Somalia, such as improvement of living conditions, promotion of business opportunities and other measures that are also crucial in combating piracy are described in detail in the Somalia Policy paper. The development initiatives and other efforts are mutually enhancing and cannot stand alone.

OBJECTIVES AND SCOPE

The Strategy focuses on three objectives;

1. combating piracy
2. protecting Danish and international shipping, and
3. building capacities in the region to enable the affected countries to meet the challenges of piracy themselves in the long term.

Geographically, the effort at the operational level is focussed on the waters off the coast of the Horn of Africa and the northwestern part of the Indian Ocean in addition to the countries in this area. Serious attacks by pirates also occur in other parts of the world, including off the west coast of Africa. This Strategy is focussing on the Horn of Africa and the Indian Ocean where the situation has escalated in recent years with several Danish ships being either hijacked or the target of attempted hijackings.

The Danish political effort takes a broad aim at relevant bilateral and multilateral players. Therefore, a presentation will be made of forward-looking efforts, both bilaterally and multilaterally, based on their political as well as operational and financial nature. In this way, the Danish efforts will be placed in an international context and framework.

The Strategy covers the period until 2014. This time frame coincides with the duration of current political and financial agreements, including the Danish Defence Agreement and the cross-governmental Stabilisation Fund.

The Danish Government expects to allocate DKK 200 million by 2014 towards Horn of Africa initiatives from the Stabilisation Fund, of which a part will be dedicated to capacity building initiatives aimed at countering piracy in the longer term. In addition come the resources assigned by the Ministry of Defence towards the military participation in counter-piracy activities.

THE INTERNATIONAL FRAMEWORK

Denmark cannot alone solve the problem of piracy. The challenge of piracy can only be countered through a coordinated international effort. The Danish Strategy should therefore be seen in a broader international context. There are many international players involved in combating piracy. Despite the important work of the Contact Group on Piracy off the Coast of Somalia (CGPCS), it seems that there is a continued need for enhanced coordination, in particular in relation to regional capacity building, which includes the coast guard sector. At this time, there is no single international strategy in place for combating piracy. For this reason, Denmark will work for the widest possible coordination of the international efforts.

The UN Security Council has estab-

The Danish ship, Absalon.

lished a framework for the international efforts through UN Security Council Resolutions 1851 (2008), 1897 (2009), 1950 (2010) and 1976 (2011). Thus, the naval forces in the area are operating on the basis of a UN mandate, which calls

upon states and organizations to participate in combating piracy off the coast of Africa using naval forces and aircraft. Attention to the piracy problem is also afforded under the auspices of the UN Office on Drugs and Crime (UNODC), the UN International Maritime Organization (IMO), the UN Development Programme (UNDP) and the UN Political Office for Somalia (UNPOS). Denmark has cooperated internationally within the IMO to maintain the international commitment to combating piracy and armed assaults on ships. This work is now being conducted in both the UN and the IMO, which has counter-piracy efforts as one of its main priorities in 2011.

In addition, the international Contact Group on Piracy off the Coast of Somalia (CGPCS) has been formed at the request of the UN Security Council. The Contact Group coordinates the efforts of the international community through four sub-groups focussing on: operational and capacity building efforts, legal challenges, self-protection within the industry and communication. Denmark is chair of the judicial working group.

NATO also plays a significant role in combating pirates at sea through Operation Ocean Shield, in which Denmark also participates. The EU, the coalition headquarters in Bahrain, which also includes Task Force 151, as well as a large number of countries are also contributing to the naval efforts in the region. All countries with naval forces in the area participate in the so-called SHADE mechanism (Shared Awareness and Deconfliction), which is aimed at securing a common approach to the challenges. Most players, including the Nordic countries, also contribute to capacity building in the region in different ways.

In addition to this, there are the regional cooperation structures, which each to their own degree play a role in combating piracy. With the 'Djibouti Code of Conduct', a regional counter piracy cooperation between 17 countries has been introduced on information sharing and capacity building. The IMO is responsible for implementing this cooperation. Furthermore, the so-called Kampala-process has led to the establishment of a Somalia contact group on counter-piracy efforts as well as introduced a mechanism for

exchanging information between the maritime authorities of the Interim government, Puntland and Somaliland. Additionally, within this framework cooperation has been established between the three entities concerning the development of common legislation on piracy. Finally, the East-African development cooperation, IGAD, has developed a strategy for combating piracy on land in Somalia. This is part of a recently developed regional strategy on piracy for the 'ESA-IO' region supported by the EU covering eastern and southern Africa as well as the region of the Indian Ocean. IGAD's members have welcomed the initiative, while at the same time emphasizing the need for coordination with other players and existing efforts. A continental approach to piracy under the auspices of the African Union (AU) is assessed to be somewhat further off.

Denmark already participates actively in the international efforts to combat piracy. This includes active Danish participation in the CGPCS as well as support for a whole string of initiatives taking place within the framework of the UN, including in particular the UNODC and IMO, as well as NATO. Attention is also given to the strengthening of regional and bilateral cooperation initiatives. The Danish Maritime Authority is representing Denmark in the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP), which is an Asian initiative to combat piracy and promote capacity building. Furthermore, Denmark has entered into a bilateral agreement with India, which includes preventive measures towards piracy. More work is needed to involve countries in the region, focusing on Tanzania and the Arab states.

In the work ahead, Denmark intends to work in all fields and at all relevant levels to promote a coordinated and focused international effort.

DENMARK'S OVERALL EFFORTS WILL BE AIMED AT:

- promoting international coordination and attention on counter-piracy efforts,

- strengthening and participating in regional cooperation on counter-piracy efforts,

- strengthening bilateral cooperation on counter-piracy efforts, among other things in order to promote a more active role on the part of the states in the region.

COMBATING PIRACY

OBJECTIVE: TO PROMOTE MARITIME SECURITY AND STRENGTHEN THE INTERNATIONAL COUNTER-PIRACY EFFORTS OFF THE HORN OF AFRICA AND IN THE INDIAN OCEAN.

A central component in combating piracy will be to change the dynamics between risk and reward, which currently falls out to the benefit of the pirates. Today, piracy has become a profitable business, and the consequences of being caught and prosecuted are not perceived as being severe enough to deter pirates from choosing this as a livelihood. A twofold response is necessary: a continued fight against pirates where they operate and finding enhanced ways of prosecuting pirates, including the leaders and financiers who generate large profits from piracy.

THE MILITARY EFFORT

There are no exact records of the number of piracy attacks and hijackings off the coast of Somalia. There is, however, no doubt that piracy continues to pose a sizeable challenge. The number of successful hijackings has grown slightly from 2008-2010 whereas the number of attempted hijackings has increased dramatically at a time where the pirates' operational area has also expanded significantly. The fact that the number of successful hijackings has only risen slightly should be attributed to the coordination and efforts of the International Community. The piracy attacks were previously concentrated in the Gulf of Aden, including the international transport corridor, which is patrolled by the international naval forces. In this area the number of attacks has been halved. The reduced number of actual hijackings in the Gulf of Aden is, however, somewhat outweighed by an increase of piracy activities in the Somali Basin and the Arabian Sea.

The international naval presence has had a significant effect, which is reflected in the increased number of averted attacks. Furthermore, the number of neutralized pirate vessels carrying piracy-related equipment that have been seized by the international forces in the area has grown significantly.

International naval forces have been present in the waters off the Horn of Africa for a number of years. NATO, EU and the American-led maritime coalition force, Combined Task Force 151, conduct operations in the area with national contingents from such countries as India, China, Russia, Japan

| ● PIRAT-ANGREB | ● FORSØG PÅ PIRAT-ANGREB (2010) |
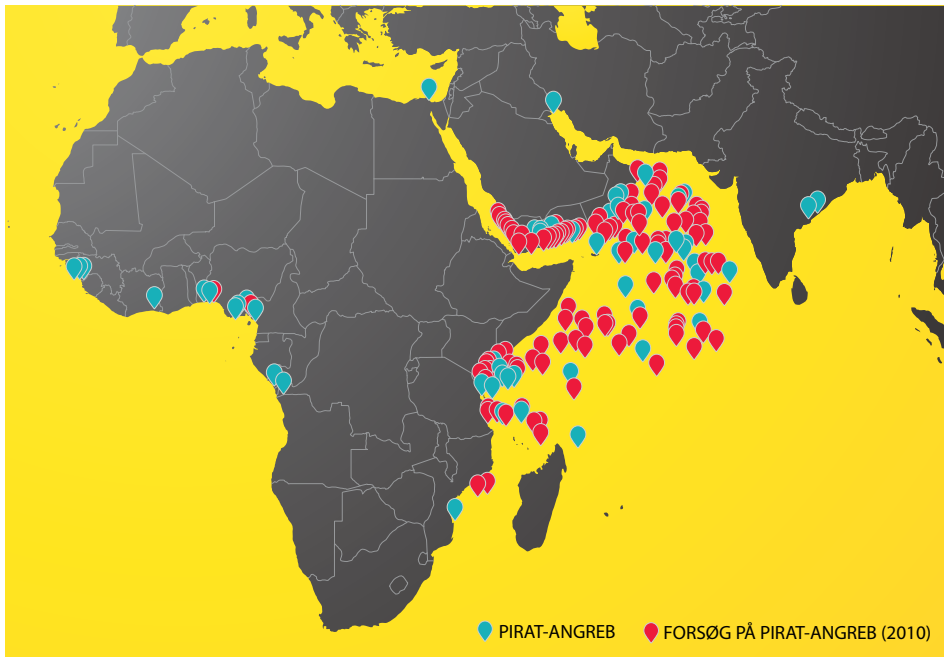
Map: ICC Commercial Crimes Services (CCS), Layout: INDIA

rain. The coordination that takes place in SHADE is unique as it takes place across operations, organizations and countries. Commanders at sea coordinate the efforts at the tactical level.

Between 20 and 40 naval vessels are continuously deployed to the waters threatened by piracy, which now cover a geographical area greater than Western Europe. Although the international efforts have impeded piracy activities remarkably, it remains very difficult to cover effectively such a large area with the resources currently available. This highlights the need for a continued, strengthened international focus on counter-piracy cooperation. However, the international community must also contemplate whether more money for the naval effort is the best way to apply resources, and whether the problem should be approached with new means.

and Iran. The international effort is coordinated between the naval forces and the shipping industry during regular meetings within the framework of the Shared Awareness and Deconfliction (SHADE) forum, which meets in Bah-

THE FRAMEWORK FOR THE DANISH EFFORTS

Since 2008 Denmark has participated actively in the international efforts to combat piracy as one of the first contributing countries. In 2008, a Danish navy vessel escorted ships carrying emergency aid to Somalia for the UN World Food Programme. In 2008 and 2009 Denmark took part in counter-piracy efforts within the framework of the maritime coalition force Combined Task Force 150/151, and since 2010 in in Task Force 508 within NATO's Operation Ocean Shield. In 2011 Denmark will contribute to NATO's Operation Ocean Shield for several periods of time with a support ship, including a helicopter and a maritime rapid reaction unit. Denmark's participation in the NATO mission is based on decision B59 of the Danish Parliament, which was passed in 2009. The effort takes place within the framework of the Danish Defence Agreement 2010-2014, which includes the aim of contributing to international operations, e.g. missions such as the NATO counter-piracy effort off the Horn of Africa.

A STRENGTHENED DANISH MARITIME AND AIR MILITARY EFFORT TOWARDS 2014

Denmark will continue to be engaged at the front line of international counter-piracy efforts, also in terms of military means. Therefore, the Danish Government will continue to periodically place a Danish naval contribution, including a helicopter and a maritime reaction unit, at NATO's disposal within the framework of Operation Ocean Shield. The naval contribution can be deployed for a period of up to six months a year.

The Danish Government also intends to strengthen its efforts by deploying a maritime patrol aircraft, which is a sought for capacity within the international counter-piracy effort. Since the waters where the pirates operate now cover such a large area, there is a demand for patrol aircraft that can create an overview quicker and more flexibly in order to provide for more targeted coordination and deployment of the various naval contributions against the pirates and their activities. A Danish Challenger patrol aircraft will be deployable independently of the naval contribution for shorter periods of time and with due consideration of the aircraft's other assignments.

In addition to the Danish naval and aircraft contributions, it is

considered important to strengthen Denmark's participation in the coordination of the international cooperation on combating piracy, which takes place in various staffs within the NATO framework and the coalition headquarters in Bahrain. For this reason, the Danish Government will also deploy personnel to different relevant operational staffs and headquarters.

CONSIDERATIONS CONCERNING A MORE ROBUST MANDATE

The UN Security Council resolutions 1851 (2008), 1897 (2009), 1950 (2010) and 1976 (2011) provide the states that cooperate with the interim government in Somalia with authorization to apply the means necessary to combat piracy, also on land in Somalia. The Security Council resolutions stipulate the precondition that operations against pirates be conducted in compliance with current human rights obligations.

None of the current counter-piracy operations (Ocean Shield, Atalanta, Task Force 151) have yet made use of the possibility of conducting operations on land in Somalia. Thus, the area of operations for the NATO Ocean Shield mission along the coast of Somalia goes no further than to "high water mark" in Somalia's domestic territorial waters, which means that the naval forces must always have water under their keels.

Currently, the international naval forces can take part in preventing hijackings, detain presumed pirates and dispose of equipment used for piracy, including the fast going vessels used for piracy attacks, as well as the motherships, from which the pirates now increasingly operate. The international naval forces do not, however, have the possibility of engaging the pirates once the pirates set foot on land. This means that it is possible to destroy piracy equipment at sea, but not on land. In the public debate, it has been proposed to also combat the pirates on land.

A more robust mandate for the international effort could be considered, if the need arises, including the possibility of targeting piracy equipment and installations on land close to the Somali coastline. Should that be the case, piracy equipment and installations could be destroyed with the use of precision-guided bombs. Where this is not possible - and in very special cases - the deployment of special forces could be considered. Such new initiatives are, however, both risky and costly and should be considered very

carefully prior to any decision possibly being made. Contrary to the current engagement, such initiatives would bear greater resemblance to efforts that are associated with actual military operations. These efforts would be complex and subject to several unknown factors, and could as such pose significant risks to the deployed troops as well as to civilians. Thus, there is also a risk that the adaptation of pirates to the risk of international forces conducting military strikes on ground targets near the Somali coast could make the situation even more difficult and dangerous for the hostages.

In any case, it is clear that potential changes to the current approach to counter-piracy efforts should be agreed upon by a broad group of countries, and that any Danish participation in new initiatives would be conducted in close cooperation with international partners, e.g. within NATO.

RESCUING OF HOSTAGES AND INITIATIVES TO COUNTER MOTHERSHIPS

The pirates' use of hijacked vessels as motherships has also added the possibility of containing hostages on board these ships. A distinction is made between, on the one side, smaller vessels that do not belong to a shipping company and where the crew is forced to assist the pirates in operating the hijacked vessel as a mothership, and, on the other side, vessels that are owned by a shipping company. The pirates normally release the smaller vessels when they can no longer be used as a mothership, whereas ransoms are often negotiated for the release of larger ships owned by shipping companies. The

use of motherships enables the pirates to use the hostages as a human shield against attacks from the international naval forces. Holding hostages on board anchored ships and on motherships used for launching attacks makes the pirates less vulnerable. It is important to keep in mind that hostages and their ships are crucial for the pirates when negotiating a ransom.

It has been suggested from different sides to make more use of hostage-rescue operations on hijacked ships where a ransom is being negotiated. It is, however, already today possible to initiate hostage-rescue operations both under national command and with potential support by NATO. It is therefore not deemed necessary at this

point to make changes to the current mandate. In case of a rescue operation it will in most cases be necessary to obtain permission from the flag states known to have crew members on board the vessel before an operation can be initiated. However, with such operations there is a risk that the hostages could be harmed. Added to this is the risk of broader retaliation by the pirates.

As mentioned, the possibility to strike against motherships already exists today. The Danish Government supports the continuation of strikes on motherships, if such action is assessed to be appropriate in the specific case. Such strikes are, however, not without risk, since the ship could have hostages on board. Apart from this, a subsequent liability to pay compensation could incur if the destroyed ship turns out not to have been a pirate ship.

INCREASED COOPERATION AND INTERNATIONAL ATTENTION

Despite the fact that counter-piracy efforts have received wide international political attention, this has not yet been fully reflected in military contributions. This means that the resources available fall short of matching the needs. Denmark makes a sizeable contribution to the international counter-piracy efforts and will work in both bilateral and multilateral forums for a strengthened, coordinated and cohesive effort. This work is already underway and includes active Danish participation in the international Contact Group on Piracy off the Coast of Somalia (CGPCS), and the International Somalia Contact Group whose primary purpose it is to promote peace and reconciliation in Somalia.

Additionally, the Danish Government will continue to expand the bilateral

cooperation with relevant regional and international players in order to increase the effect of our own counter-piracy effort as well as that of others. This work will take place at the strategic, operational and tactical level.

SPECIFICALLY, DENMARK WILL:
- deploy a naval contribution including a helicopter and a maritime response unit for up to six months per year,

- deploy a maritime patrol aircraft for shorter periods of time with due consideration of the aircraft's other assignments,

- deploy personnel to the relevant operational staffs and headquarters as well as coordination forums for the international effort,

- continue to let the Danish military contribution combat piracy under both national and NATO command, and

- parcitipate in possible future international considerations on adjustments to the mandate for the international effort, including within the NATO framework.

DENMARK WILL FURTHERMORE WORK TO:

- strengthen Danish bilateral co-operation on counter-piracy efforts with relevant countries, and

- promote increased international attention and increased military contributions to the counter-piracy efforts.

THE LEGAL EFFORT

Denmark chairs the working group on legal challenges under the international Contact Group on Piracy off the Coast of Somalia (CGPCS). The working group consists of representatives from 55 countries and organizations and is charged with identifying practical solutions to the legal challenges posed by the counter-piracy efforts.

The legal working group has achieved a large number of tangible results. On the whole, the working group has contributed significantly to facilitating co-operation between states concerning the legal aspects of the counter-piracy efforts. Among other things, this co-operation includes common legal standards in a number of areas connected to the military efforts and in relation to the collection of evidence in order to ensure prosecution of the pirates.

The challenge of prosecuting pirates is central to the fight against piracy. The working group to a large extent creates the foundation for the broader effort in this area within the UN. The UN Secretary General appointed a special envoy on piracy, Jack Lang, who in 2011 published a report, focusing on prosecution of pirates. Both within the CGPCS and the UN work continues on the basis of Jack Lang's recommendations. As a follow-up to Jack Lang's report considerations are being made on placing a Somali court on piracy outside Somalia with a view to prosecuting pirates there.

Within the working group it has previously been agreed that pirates should be prosecuted nationally, particularly in

the countries in the region. According to UNODC, as of March 2011, 946 pirates are either serving or awaiting their sentence in 18 countries. This can be seen as a sign that national prosecution is working as intended. There are no certain statistics to support the claims that many suspected pirates are let go, nor can it be substantiated what the reasons are for releasing detained piracy suspects. As in the case of other types of crime, it is crucial that there is sufficient evidence to conduct a successful criminal court case. It is assessed that in the cases of many of those, who are released, such evidence does not exist.

The primary challenge in relation to prosecution is not the lack of courts, but the lack of prison capacity. A number of countries in the region have stated that they are prepared to either expand the scale of prosecutions (the Seychelles) or commence prosecutions (Tanzania, Mauritius), but do not wish for convicted pirates to serve sentences in their own prisons.

In this way prosecution and imprisonment are closely connected. Due to the limited prison capacity within the countries in the region that have declared themselves willing to prosecute pirates, increased prosecution requires that convicted pirates can serve their sentences in other countries.

Within the legal working group an agreement has been reached on the legal and practical framework for post trial transfers so that pirates can be prosecuted in one country and subsequently transferred to serve their sentences in UN-constructed prisons in Somalia (Puntland and Somaliland). Much work still remains to ensure that this framework will work in reality, which depends to a large extent on support from the International Community for construction of prisons in the two provinces. Denmark has already supported the construction of prisons and will continue to support further expansions of prison capacity in the two provinces (see chapter on capacity building). Sentence serving in Somaliland and Puntland will obviously require assurances that human rights will be respected. This will be ensured, among other things, through independent monitoring of the prisons.

Denmark is also continuously working to make bilateral agreements with countries in the region on transfers of Somali pirate suspects for prosecution

in Somalia. The transfer agreement between Denmark and Kenya expired in September of 2010, Kenya has, however, stated its continued preparedness to receive pirates for prosecution on an ad hoc basis. In addition to this, Denmark is working with the Seychelles on the completion of a similar transfer agreement.

As in all criminal court cases the prosecution of pirates requires sufficient evidence, and, as previously mentioned, many detained suspects are released on the basis of insufficient evidence against them. It has been discussed within the legal working group whether the lack of prosecution is also a result of insufficient national legislation of the relevant countries, which means that attempts at committing acts of piracy are not criminalized. Therefore,

Denmark works for all states to introduce contemporary piracy legislation to ensure that piracy – including assistance to and attempts at piracy – is punishable according to national law.

It has been suggested several times in the legal working group to also criminalize the possession of equipment related to piracy. Such criminalization would entail a number of legal complications, not least since much equipment used by pirates is also used as standard marine equipment, e.g. by fishermen. This topic continues to be discussed within the working group. Furthermore, the possession of equipment related to piracy can already in many cases – even though the possession in itself is not illegal – be used as a priori evidence in a criminal case regarding piracy, including cases regarding attempt of piracy.

Section 183, para. a of the Danish Criminal Code warrants a penalty for piracy, and the ordinary rules on attempts and complicity within the Criminal Code are applicable for actions covered by this provision.

The Danish Ministry of Defence will establish a working group consisting of representatives of the Ministry of Justice and the Ministry of Foreign Affairs, which will examine more closely relevant national legislation related to counter-piracy operations. This work should be seen in connection with the current adoption by several countries of specific provisions on piracy within their national legal systems.

The Ministry of Justice has established a working group with representatives

from the Danish Defence, the National Police and the public prosecutor's office. The working group has been charged with producing a set of guidelines for the Danish naval vessels on how to handle cases that may result in prosecution of pirates in Denmark. These guidelines are under preparation, but are expected to contain specific directions on collection of evidence and communication between authorities in order to ensure a suitable execution of a potential criminal case about piracy.

The working group is also currently investigating the need and possibilities for exchanging information, including biometric and other personal data, between the Danish Defence and the police in order for the police to be able to pass on the collected data to INTER-POL, which is responsible for the international coordination of prosecution, including that of individuals and groups who through financing or otherwise are supporting parts of the piracy activities off the coast of Somalia.

It is also a priority for Denmark to establish the optimal legal framework for countering the leaders and financiers of piracy, as mentioned in the chapter below.

SPECIFICALLY, DENMARK WILL

• via her chairmanship of the legal working group continue to work actively to find practical solutions to the legal challenges posed by the counter-piracy efforts. This means that Denmark, among other things, works:

- for all states to introduce contemporary piracy legislation ensuring that piracy, including complicity and attempts at piracy, is punishable under national law.

- to ensure that the model of post trial transfers is implemented.

• continue the work to seek bilateral transfer agreements with countries in the region in order to enable the transfer of Somali piracy suspects for prosecution in those countries, and

• develop guidelines for the cooperation between Danish authorities in cases that may lead to the prosecution of pirates.

PROTECTION OF MARITIME SHIPPING

OBJECTIVE: TO CONTRIBUTE TO THE PRO-
TECTION OF DANISH AND INTERNATIONAL
MARITIME SHIPPING

PROTECTING DANISH AND INTERNATIONAL SHIPPING

The Gulf of Aden, the Somali Basin and the Indian Ocean are busy waters. It is estimated that some 10 to 15 ships sailing under the Danish flag find themselves in these waters every day. A large part of world trade is transported through these waters. Attacks against international – and Danish – shipping have been increasing, and transiting through the area is associated with great risks. It is estimated that on average more than 25 ships are hijacked ships and more than 600 individuals are being held hostage by the pirates, which with great personal costs for the hostages and their relatives.

The character and scale of the problem underlines the need for protection of the ships that navigate the area. It is estimated that 80 percent of the attacks are averted as a result of the shipping companies' compliance with the so-called Best Management Practices (BMP). The interaction between the ships' compliance with the Best Management Practices and the military effort is therefore important. This underlines the significance of cooperation with the shipping industry to curb the piracy activities.

ARMED GUARDS

The developments in piracy have lead to, among other things, a wish to deploy Danish military or private guards onboard Danish ships passing through the Gulf of Aden and in the Indian Ocean.

MILITARY GUARDS

Following requests from the industry, the question of using military guards onboard Danish ships has been discussed thoroughly. Only in a limited number of cases have armed Danish military guards been used onboard merchant ships sailing under the Danish flag. The Danish Defence has provided guards for its own hardware during transports of larger quantities of Danish military equipment destined for the Danish troops in Afghanistan, in which case it was assessed that there was a very special need for protection. Furthermore, in 2008 reaction teams from the ocean patrol vessel THETIS were deployed as military guards onboard civilian ships sailing supplies to Somalia on behalf of the UN World Food Programme.

Source: Corbis/Polfoto

The deployment was part of the escort provided by THETIS for the cargo ships, and was characterized by the civilian ship with guards onboard being supported operationally and logistically by the ocean patrol vessel.

It is the opinion of the Danish Government that it would create an undesirable precedent, if Danish soldiers were to provide military protection for Danish ships. Denmark has a general interest in avoiding contributing to a potential international tendency for the various military forces to concentrate their resources on protecting their own national ships rather than cooperating for a more proactive and coordinated counter-piracy effort. It will not serve long-term Danish interests if national protection tasks are performed at the expense of international cooperation. Furthermore, the use of military guards is not assessed to be a cost-effective application of sparse military resources. On these grounds, it is the position of the Danish Government that the option of using military guards onboard Danish ships should not be pursued.

ARMED CIVILIAN GUARDS

In accordance with the recommendations of the shipping industry, the Danish Government has showed great reluctance in terms of allowing the use of civilian guards onboard Danish ships. This position has primarily been based on a principled reluctance to grant civilian guards the permission to use weapons for self-defence purposes, but also in concern that the use of armed civilian guards onboard Danish ships could contribute to a further escalation in the methods used by pirates when hijacking ships.

The expansion of the pirates' operational radius, however, means that it has become more difficult for the international naval forces to concentrate their efforts in the areas where pirate attacks take place. The shipping industry has therefore wished to have the possibility of using armed civilian guards in special cases to protect the ship and its crew against pirate attacks.

On this background and following consultations with the industry, the Danish Government has decided to adopt a more open approach to the use of armed civilian guards, so that it will no longer – as it has previously been the case – be necessary to substantiate a specific and extraordinary threat against the ship in question. Based on an application, the shipping companies therefore now have the possibility of obtaining a firearms certificate for using armed guards on board Danish ships, provided that the general threat assessment for the area is perceived to require this, and as long as the specifics of the case, also in terms of compliance with Best Management Practices, do not otherwise speak against it. This is not a long-term solution to the piracy problem, but it has turned out that the use of armed guards at this time provides efficient protection against pirate attacks.

In order to meet the needs of the industry to the greatest possible extent, the Danish Government is engaged in a continuous and close dialogue with the shipping industry aimed at making the application process as flexible and un-bureaucratic as possible, while at the same time ensuring that no available personal data on the guards gives cause for concern when issuing a firearms certificate.

INTERNATIONAL GUIDELINES FOR THE USE OF ARMED CIVILIAN GUARDS

If the use of armed civilian guards on merchant ships becomes more widespread, the need to establish international guidelines for the guards' conduct etc. may arise. Such guidelines could contribute to, among other things, avoiding incidents where armed guards contribute to an escalation of the situation causing danger for the ship and crew as a consequence. International guidelines might also contribute to facilitating the process for civilian security companies of obtaining the necessary permits outside Denmark.

The Danish Government will therefore support the international development of guidelines for the use of armed civilian guards. The work is already underway internationally.

SPECIFICALLY, DENMARK WILL:

- in cooperation with the shipping industry work to make the application process in relation to armed civilian guards as flexible as possible.

DENMARK WILL ALSO WORK FOR:

- the international development of guidelines for the use of armed civilian guards.

PREVENTIVE MEASURES ON THE SHIPS

There is a lot of reason to suggest, that an important factor for whether or not a ship is attacked, are the physical characteristics of the ship, including, among other things, freeboard and speed, in combination with the visible application of a number of other measures. Therefore, when working to protect the shipping traffic, it is important to include the shipping companies, who themselves carry a responsibility for the safety of the ships through the use of measures to prevent piracy.

UNs International Maritime Organization (IMO) has issued manuals to ships, crews and the administrations of the member-states. One important tool for preventing piracy is the Best Management Practices (BMP) that have been developed by the international shipping industry in cooperation with, among others, the international naval forces. BMP is aimed specifically at ships navigating the waters off Somalia.

The BMP contains recommendations for the ships on how to prevent piracy attacks. All ships are recommended to register and report on their transit through the Gulf of Aden and the Indian Ocean to international points

of contact (MSC-HOA and UKMTO), ensuring that the naval forces have an overview of the ships sailing in the area and are able to coordinate the effort.

The recommendation for ships to register and report on their sea passage is the only objectively measurable element of the BMP. The other elements of the BMP depend on a risk assessment of the particular ship. The ships are very different and the risk to which they are subjected therefore depends on the characteristics of the specific ship (e.g. does it sail at high or low speed, does it have a high or low freeboard). This means that the preventive measures that must be taken are also different.

In 2008 Denmark (the Danish Maritime Authority) issued a regulation according to which merchant ships must have pro-cedures and take preventive measures with regard to piracy if the ships are sailing in areas with a piracy risk. The recommendations of the IMO, including the BMP, are a part of this order.

COMPLIANCE WITH THE BMP

The preventive measures of the BMP (e.g. barbed wire, additional look-outs etc.) make it more difficult for pirates to attack the ships. The BMP is therefore crucial in order to avoid and prevent piracy attacks. However, it is assessed that there is still a significant number of the ships in the world that do not follow the recommendations of the BMP.

In an attempt to increase the compliance with the BMP the international naval forces have initiated monitoring of the ships' use of the BMP; partly the objectively measurable elements (regis-tration/reporting on navigation), partly assessing the visible measures taken to prevent piracy attacks (e.g. barbed wire). Denmark backs and supports this initiative. As of January 2011 the flag states receive monthly reports that show which of their ships are assessed not to have complied with the BMP. It is then up to the flag states to take action as they see relevant. Furthermore, lists containing all ships in the world assessed not to have complied with the BMP are sent to the International Chamber of Shipping, which forwards the list to its members all over the world. In this sense, the list in question is sort of a "name and shame" list.

In the (few) cases where Danish ships appear on the list of assessed

non-compliant ships, the Danish Maritime Authority makes direct contact to the shipping company for an explanation. In order to maintain the responsibility of the industry itself for compliance with the BMP the information is also forwarded to the Danish Shipowners' Association and the Shipowners' Association of 2010 so that they may follow up in relation to their members. The Danish Government will look into the need to making the objectively measurable part of the BMP, i.e. registering/reporting the ships' sea passage, mandatory for Danish ships.

The problem of non-compliance with the BMP is in fact greatest with regards to non-Danish ships. It is therefore important to do more internationally to ensure compliance. In this regard it is also important to ensure that the BMP continues to maintain its dynamic character; that it is adapted to the experience gained by the shipping industry in their navigation of the area. It is also important that the individual characteristics of the ships continue to be taken into account. The Danish Government will therefore work internationally to examine and discuss to which extent certain parts of the BMP should be made internationally mandatory.

SPECIFICALLY, DENMARK WILL:

- continue the active support for following up on the ships' compliance with the BMP;

- examine the need to make the objectively measurable part of the BMP, i.e. registering/reporting on the ships' sea passage, mandatory for Danish ships.

FURTHERMORE, DENMARK WILL WORK TO

- promote the examination and discussion in relevant international forums (IMO or the working group in the CGPCS on self-protection within the industry) on whether to make certain parts of the BMP mandatory internationally;

- ensure that IMO maintains its focus on combating piracy through contemporary guidelines.

CAPACITY BUILDING

OBJECTIVE: TO BUILD CAPACITY, THERE-
BY ENABLING THE COUNTRIES IN THE
REGION TO MEET THE CHALLENGES OF
PIRACY BY THEMSELVES IN THE LONG
RUN.

If the counter-piracy effort is to cre-
ate the preconditions for lasting and
sustainable solutions, the countries in
the region must build their own capaci-
ties for handling the challenges in the
area of maritime security. This applies

to Somalia and its different domestic
regions, as well as for the neighbouring
countries. In this respect there are three
areas in particular need of support. The
first area is the building of coastguard
capacities in the region to enable the
countries in the region to improve their
ability exercise traditional maritime
authority, thus enabling them to curb
piracy independently. Secondly, there is
an urgent need to provide support for
building legal institutions and strength-

ening the security sector in Somalia.
This includes enhancing and expanding
the prison capacity in the country, so
individuals convicted of piracy outside
the country can serve their sentences
in Somalia. Finally, a targeted effort
against the leaders and financiers of pi-
racy is needed. These areas of attention
support the military and legal initiatives
described in the previous sections and
are to been viewed in that context.

THE SUPPORT OF THE SOMALIA POLICY REGARDING GOOD GOVERNANCE
If, in the long run, Somalia is to handle the many challenges it faces, including maritime
security enforcement and prosecution, there is a very fundamental need to stabilize the
country in order to create the foundation for good public administration and well-func-
tioning institutions. As described in the Danish Somalia Policy Paper, Denmark supports
the central government in its efforts to establish security in Mogadishu and to finalize
the work on the interim constitution. Furthermore, Denmark will support the building
of representative, transparent and well-functioning institutions in those parts of Somalia
where this is possible.

Source: Corbis/Polfoto

Capacity building is a long-term process that demands a long-term engagement. A certain impact can be made in the short term, but more substantial impact will often take longer to achieve. There-fore, this approach also requires greater patience. Additionally, the projects are deemed to be associated with a cer-tain degree of risk. As a result of this, ongoing risk management is bound to be a key issue. To achieve sustainability and long-term results it is crucial that the efforts are rooted in local needs and requests. This will secure local owner-ship, which is the key to ensuring that the effort is continued when the Danish and international support eventually ceases.

Capacity building can require a lot of resources, and Denmark cannot perform these tasks on its own. Close cooperation with other donors as well as with regional and international organizations, e.g. the UN, will there-fore be needed. This applies not least to the situation in Somalia, including Somaliland and Puntland, where the UN has experience in implementing projects under very difficult condi-tions. Cooperation with the UN would increase Danish influence in the form

THE SUPPORT OF THE SOMALIA POLICY FOR ALTERNATIVE INCOME GENERATION
A coastguard would – apart from being able to combat pirates – contribute to meeting a large challenge in Somalia, which is the need for sources of income. Larger parts of the Somali population could potentially make a living from fishing if only fishery control could be enforced, a licensing system for fishing permits could be introduced, and provided that local fishermen could receive protection against pirates. At the same time, alternative sources of income could give potential pirates a worthwhile occupation in a more peaceful trade. The Somalia programme supports growth and employment through the creation of improved frameworks and facilities for the private sector, while devoting special attention to fishing and agriculture.

of involvement in broader projects and contribute to diversifying risk.

The Danish Defence Agreement 2010-2014 established a governmental pool of funds; the Stabilisation Fund, consisting of both development aid and other aid (DKK 150 million per year). The Fund provides new opportunities for financing efforts in fragile states in areas ranging between security and development. For the period 2011-2014 the Danish Government expects to allocate a total of DKK 200 million for a new regional programme in East Africa/The Horn of Africa. A part of these resources is expected to be allocated to capacity building initiatives in relation to the long-term efforts to counter piracy.

In order to achieve synergy and avoid duplication of efforts, Denmark will actively contribute to transparency and openness regarding its own activities. This will, among other things, be achieved by entering into relevant partnerships and through participation in international forums aimed at exchanging information. These forums include the International Contact Group on Piracy as well as "Friends of EASF-COM," for which Denmark assumes the chairmanship in 2011.

MARITIME CAPACITY BUILDING – SUPPORT FOR COASTGUARD FUNCTIONS
The training and building of coast guards is an important element in the counter-piracy efforts. An efficient coastguard will not only be able to

patrol in search of pirates, but will also be able to exercise control of fishing, perform environmental surveillance and maritime rescue operations etc., which could generate increased income for the state and create alternate sources of income in the local communities from which piracy stems. However, an efficient coastguard is dependent on both maritime capacities and a number of structures and institutions on land. At this point it would not be possible to build a national Somali coastguard due to the absence of an effective central government. However, in Somaliland, among other places, there is a limited coastguard capacity which can be enhanced in the longer term. In this case it will be a long-term effort, which will require significant resources, and which Denmark will not be able to support on its own.

Piracy – although it stems from Somalia – is to a great extent also a regional and international problem. The surrounding countries are influenced by the problem because their territorial waters are increasingly included in the area within which the pirates operate. This has severe consequences for the international shipping traffic and trade in the area. The entrance to the Mombasa harbour is so exposed that several ship owners avoid using the harbour. Solutions to

piracy must therefore be sought outside the borders of Somalia. This applies not least to the building of maritime capacities.

The support of the international community for capacity building is coordinated in Working Group 1 under the International Contact Group on piracy. At the moment, there is no single coherent strategy for building coast guard capacity in the maritime area, and

Through the **Africa Programme for Peace** Denmark has since 2004 been supporting the building of regional capacity for conflict management and prevention. The effort, which has included the African Union, IGAD and EASF amongst others, has not been aimed directly at piracy. Danish support has, however, enhanced the general capacity and ability of the organizations to handle African challenges in the area of security policy, including piracy.

no comprehensive framework for the efforts. The UN has limited capacity in the maritime field, and the African Union has traditionally not prioritized maritime security. The effort in the area of maritime capacity building therefore, in the short term, will be directed towards the countries in the region at the bilateral level, as well as at the ongoing regional cooperation efforts. At the same time, work should be done to create a more cohesive international framework for the effort.

REGIONAL COOPERATION

At the regional level it is of particular importance that cooperation between the affected coastal states be strengthened in terms of the overall planning and coordination of efforts, information sharing and intelligence exchanges, as well as in joint training activities.

Since 2009 Denmark, together with the other Scandinavian countries, has been supporting the establishment of a regional maritime capacity in the framework of the Eastern African Stand-by Forces – EASF, including the creation of a maritime planning cell (MPC) in the headquarters in Nairobi. The experience gained provides a good basis for future support to this area, which will contribute to the enhancement of regional cooperation in the maritime area.

Denmark will also seek to promote cooperation at the operational level between the individual coastal states. Operational cooperation, including information sharing and joint training activities, will not least contribute to a greater degree of mutual trust between the countries, thereby strengthening regional integration.

THE BILATERAL LEVEL

To support and supplement the regional effort, it will be necessary to simultaneously provide direct support for the creation of coast guard functions in individual countries in the region. With its strong naval profile, Denmark has strong capacities in this field and will be able to contribute with capacity building, including advising and training activities, and potentially with smaller donations of equipment. Denmark already has limited capacity building activities in Djibouti. Likewise, since 2010 Denmark has been a part of the group of countries that provides capacity building for the Yemenite coast guard. Due to the current situation in Yemen, it is unclear whether these activities can be continued, but the option is kept

open. As a new initiative, Denmark is the examining how to contribute to capacity building of the Kenyan coast guard. Kenya will be an important partner, not least because of the harbour in Mombasa.

POTENTIAL COAST GUARD INITIATIVES IN SOMALIA WITHIN A UN FRAMEWORK

In the long term, a solution to piracy depends on capacity building also being undertaken in those parts of Somalia proper, where this is possible, including Somaliland. Any Danish contribution to such an effort must take place within a broader international framework. At this point, however, there is no coherent, multilateral framework for coast guard capacity building. The IMO facilitates regional coast guard cooperation within the framework of the Djibouti Code of Conduct, which includes activities in Somalia. Denmark will

work actively for the UN to strengthen its role in relation to the building of coast guard capacities in Somaliland, among other places. Once a sustainable framework for a multilateral effort has been established, Denmark will provide support.

SPECIFICALLY, DENMARK WILL:

• continue the ongoing work on joint Scandinavian support for capacity building related to a maritime planning cell within the framework of the Eastern African Stand-by Forces (EASF);

• work to promote regional cooperation between the concerned countries in the region at the operational level, e.g. through strengthened information sharing and joint training activities;

• examine the possibilities for bilateral cooperation with relevant coastal states in the region – especially Kenya – with a view to building capacity of coast guard functions;

• enhance the coordination of capacity building initiatives by promoting a leading role for the UN, also in relation to initiatives in the parts of Somalia where such initiatives are possible to launch;

• provide support whenever possible for a multilateral effort in relation to coast guard capacity building in Somaliland and Puntland;

• work actively in international forums such as the international Contact Group on Piracy of the Coast of Somalia (CGPCS) to achieve synergy and avoid duplication of efforts;

Abdirachid Simai, 39, is serving a sentence for piracy in the Manderah prison in Somalia. An expansion of the prison capacity in Somalia is required if pirates are to be able to serve their sentences in their home country even though they have been convicted abroad. Source: Corbis

of a functioning legal system in all parts of Somalia. The Danish Somalia Policy Paper underscores that improved governance – nationally, regionally and locally – is a key issue for the stabilization of Somalia. An important part of this is the creation of central courts that can ensure that piracy is punished, which is why Denmark contributes to the UNDP programme on strengthening the judicial system in Somalia. In the short term is must be ensured that convicted pirates can serve their sentences on Somali territory.

During the Danish chairmanship of the working group on legal challenges under the CGPCS, consensus has been reached on an arrangement whereby pirates convicted in another country can

- ensure local ownership by letting African requests and priorities be defining for the Danish efforts.

THE JUDICIAL SYSTEM
A long-term solution to the piracy problem requires the establishment

be transferred to serve their sentences in Somalia. This is a precondition for the countries in the region to be willing to handle court cases against the pirates, and thus constitutes a cornerstone in the effort to punish piracy in the short and medium term. The arrangement requires a significant expansion of prison capacity in Somalia, particularly in Somaliland and Puntland, which are currently the only regions in Somalia capable of receiving the convicted pirates. International assistance is necessary to ensure a swift construction of facilities, but also to ensure compliance with basic human rights. Through the UN Office on Drugs and Crime (UNODC) and the UN Development Programme (UNDP) Denmark has provided support for the construction of prisons, strengthening legal systems and education for lawyers in Somaliland and Punt-

Source: Corbis/Polfoto

land. Danish efforts will yield the best results when pursued through the UN system. Initially, Denmark and Norway will together support the UNODC

construction of two new prisons in Somaliland and Puntland that can accommodate convicted pirates. The support also covers training of prison staff and

the establishment of systems to ensure that prisons are operated in accordance with basic human rights.

In the medium term, prison building must be part of a broader effort to establish the functional legal systems necessary to address the culture of impunity. Prison building must go hand in hand with a broader effort to build up the judicial system within the areas from which piracy stems. The prospects for broader efforts are closely connected to the security situation. Due to the security situation it is not currently possible to implement programmes in Southern and Central Somalia.

SPECIFICALLY, DENMARK WILL:

• contribute to the construction of two new prisons in Somaliland

and Puntland to receive convicted pirates, as well as examine the possibilities of further efforts in the area of prisons;

• support the work of the UN to build the judicial and security sectors, including police forces in Somaliland and Puntland in order to combat the culture of impunity in the areas from which piracy stems. Initially, support could be provided by seconding an adviser. Over time other initiatives could be launched;

• establish relationships of strategic cooperation with relevant partners in the efforts related to the judicial and security sectors.

ADDRESSING THE FINANCING OF PIRACY

The need for an effort against the financiers and sponsors of piracy is increasingly gaining international attention. The financiers play a part in planning and promoting piracy – and they are the ones who end up with the majority of the earnings. Work is currently underway internationally to target those who back the pirates, amongst other things through anti-money laundering instruments. Denmark will continue to play an active role in this work.

The Danish-led judicial working group, CGPCS, has contributed to placing the question of piracy financing on the international agenda. The international organization against money laundering, the Financial Action Task Force (FATF)

also has its attention directed towards piracy and kidnapping for ransoms. Among the challenges in this area is the difficulty of tracking the money flow from piracy, since most economies in the region are cash-based. General knowledge about what happens to the ransom money is also very sparse.

The CGPCS has identified a number of areas related to the financial aspects of piracy in which there is a need for further efforts: strengthened cooperation between police and military in relation to information exchange, improved private sector cooperation on exchanging information, as well as capacity building in the financial institutions of the region in order to implement the existing anti-money laundering instruments. The work covering the financial dimension of piracy will continue in the Contact

Group, and Denmark will participate actively in this work.

Additionally, the typology working group on piracy and kidnapping for ransoms under the FATF will present a combined report no later than mid-2011 on the financial aspects of piracy and kidnapping for ransoms. The report will include a number of recommendations on how to apply existing anti-money laundering instruments in this area. Denmark participates in the typology working group.

A large part of the earnings from piracy is thought to be channelled out of Somalia. The earnings have negative consequences not just in Somalia, but also in the countries of the region that feel the criminal side effects in the form of money laundering and cor-

ruption. In the absence of a functioning government in Somalia, the effort against the financiers of piracy must take place partially outside Somalia, primarily in the neighbouring countries, where a focused effort can contribute to preventing illegal flows of money in and out of Somalia. From early 2011 Denmark has initiated further capacity building on the Horn of Africa to address this issue. The initial emphasis is placed on Ethiopia and the formation of a Financial Intelligence Unit, an in-country unit that monitors suspicious flows of money. The initiative aims at ensuring a better understanding and control of how unofficial Somali providers of money transfers operate. The fundamental challenge is to build a system that does not impede the fully legitimate flows of money, but instead targets the illegal flows of money. The

Danish Public Prosecutor for Serious Economic Crime has rich expertise in the area and is actively involved in this work.

The main focus of the Danish project is to address the financing of terrorism. At the same time, as an important side effect, the increased transparency regarding flows of money makes it more difficult for the leaders and financiers of piracy to move their money around within the region. Since a Danish effort cannot stand on its own, a central part of the strategy is to simultaneously establish a partnership between the countries and international organizations that collectively contribute to solving the task. The coalition aimed at illegal flows of money is being formed with Danish participation.

The Danish project is initially set to run until mid-2012. At the beginning of 2012 an assessment will be made on how the effort can best be continued.

The Danish Ministry of Justice and the Ministry of Foreign Affairs are currently assessing and enhancing the national procedures for securing financial traces and evidence in specific piracy cases.

SPECIFICALLY, DENMARK WILL:
- continue to participate actively in the international work to target those financing piracy, including work under the auspices of the FATF and the international Contact Group;

- persistently pursue those financing piracy and their money, as well as examine the possibilities of continued Danish efforts in the region;

- contribute to the formation of a coalition of countries and international organizations against illegal flows of money;

- work for the UN to increase its efforts to target the financiers of piracy through initiatives against money laundering, and

- assess and enhance the national procedures for securing financial traces and evidence in specific piracy cases.

RISK FACTORS

The counter-piracy efforts are associated with certain political and financial risks as well as risks related to security.

The military effort naturally entails security risks for the Danish troops, for the pirates and for those who are held hostage by the pirates. It cannot be excluded that pirates will escalate the situation by threatening to and actually executing hostages in the face of an increased and sustained international military effort that could threaten their livelihood. Even despite the fact that the hostages are the most crucial element of the pirates' negotiations for a ransom. In this case Denmark and the international community will be faced with a new situation, which will require renewed considerations.

In relation to capacity building, the concern for sustainability will pose a challenge. In a region that contains fragile states and which is characterized in many places by low capacity and relatively high levels of corruption, there is a risk that initiatives launched will not have the intended effect. Efforts to reduce the financial risks include working through partners and programmes that can perform auditing locally.

The overall and quite proactive Danish effort is also associated with certain political risks. Developments in piracy activities are difficult to predict, and there is a risk that the effort may not yield the desired results. This issue will, however, be addressed through a continuous evaluation of how well the objectives laid out in the strategy are met, potentielly followed up by the necessary adjustments to the effort.

Finally, the political development in the region, particularly in Somalia and Yemen, will constitute a risk factor for the efforts in general capacity building.

REPORTING ON THE STRATEGY

The responsibility for implementing this strategy lies with the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Justice and the Ministry of Economic and Business Affairs. Each ministry will monitor the counter-piracy efforts. A report on the effort will be submitted to the Danish Parliament once a year with the purpose of ensuring a combined overview, an opportunity to evaluate the results of the effort, assessing the coherence between the various initiatives and the need for any adjustments to the strategy in light of developments.

Based on contributions and approval by the ministries involved, the Ministry of Foreign Affairs will produce a joint report, to be included in the annual report on security policy to the Danish Parliament.